

**Finding of No Significant Impact and Decision Record
El Centro Field Office**

EA Number: CA-670-2007-97

Case File No. NA

Proposed Action Title/Type: Five Wildlife Guzzlers

Applicant/Proponent: Bureau of Land Management

Location of Proposed Action: 5 locations in Eastern Imperial County

E.T. Tank	T 13S R 20E Sec 5 SBM
Broken Arm Tank	T 13S R 20E Sec 24 SBM
Dietz Tank	T 10S R 18E Sec 24 SBM
B.P. Tank	T 12S R 20E Sec 7 SBM
Vinegar Tank	T 12S R 20E Sec 2 SBM

Conformance with Applicable Land Use Plan:

These plans have been reviewed to determine if the proposed action conforms to the land use plan terms and conditions as required by 43 CFR 1610.5. This proposed action is in conformance with the following land use plans:

Name of Plan:	California Desert Conservation Area Plan	Date Approved:	1980 (revised 1999)
Name of Plan:	Northern and Eastern Colorado Desert Coordinated Management Plan and Final EIS (NECO)	Date Approved:	2002

Summary of Alternatives

The proposed action (Alternative A) is to construct five wildlife guzzlers in eastern Imperial County. These structures would consist of a dam, waterline, underground tank, and an open drinker equipped with a ramp allowing wildlife to enter and exit the drinker safely.

Alternative B is the no action alternative. Under this alternative, no construction would occur.

Rationale and Management Considerations

Alternative A (construction of five wildlife guzzlers) is preferred over Alternative B (no action) for the following reasons:

- Alternative A most closely conforms to the action item goals in NECO.
- Alternative A best meets the statutory requirement of Fish and Game Code Section 1801 which states that it is “the policy of the state to encourage the preservation, conservation and maintenance of wildlife resources under the jurisdiction and influence of the state”
- With the mitigation measures listed below, the adverse environmental impacts of Alternative A are not significant and will be only nominally greater than those attributable to Alternative B.

Description of Mitigation Measures:

The BLM will impose the following mitigation measures.

- a. The project proponent shall designate a qualified biologist (QB) who would be responsible for overseeing compliance with protective stipulations for the desert tortoise and for coordination on compliance with the BLM. The QB must be on-site during all project activities. The QB shall have the authority to halt all project activities that are in violation of the stipulations. The QB shall have a copy of all stipulations when work is being conducted on the site. The QB may be a biologist with desert tortoise experience and approved by BLM.
- b. All employees/volunteers of the project proponent who work on-site shall participate in a tortoise education program prior to initiation of field activities. The project proponent is responsible for ensuring that the education program is developed and presented prior to conducting activities. New employees/volunteers shall receive formal, approved training prior to working on-site. The employee education program must be received, reviewed and approved by the BLM Field Office at least 15 days prior to the presentation of the program. The program may consist of a class presented by a qualified biologist (BLM or contracted) or a video. Wallet sized cards or a one page handout with important information for workers to carry are recommended. The program shall cover the following topics at a minimum:
 - _ Distribution of the desert tortoise,
 - _ General behavior and ecology of the tortoise,
 - _ Sensitivity to human activities,

- _ Legal protection,
- _ Penalties for violations of State or Federal laws,
- _ Reporting requirements, and
- _ Project protective mitigation measures.

- c. The area of disturbance shall be confined to the smallest practical area, considering topography, placement of facilities, location of burrows, public health and safety, and other limiting factors. Work area boundaries shall be delineated with flagging or other marking to minimize surface disturbance associated with vehicle straying. Special habitat features, such as burrows, identified by the qualified biologist shall be avoided.

To the extent possible, previously disturbed areas within the project site shall be utilized for the stockpiling of excavated materials, storage of equipment, and location of office trailers and parking of vehicles. The qualified biologist, in consultation with the project proponent shall ensure compliance with this measure. Staging areas for this project shall be surveyed for desert tortoise and their burrows and if present, shall be moved and avoided as appropriately determined by BLM.

- d. Cross-country access shall be the standard for temporary activities. There will be no construction of new roads. To the extent possible, access to the project site shall be restricted to designated "open" routes of travel. A qualified biologist shall select and flag the access route, to avoid burrows and to minimize disturbance of vegetation. All access is to be considered temporary. After the project is completed, the temporary access routes shall be rehabilitated using ripping, raking, and other accepted techniques.

As explicitly stated in the project permit, cross-country vehicle use by employees/volunteers is prohibited during work and nonworking hours. No new permanent road, two-track or otherwise, shall be created from a main road to any of the guzzlers. Driving off route is not permitted for routine inspection of the guzzlers. Subsequent maintenance may require vehicle use and thus will require restoration of temporary impacts.

- e. Desert tortoises shall be allowed to move through a project area and shall not be disturbed under any circumstances. All construction activities shall cease until the desert tortoise has moved through the area. No handling of the desert tortoise is allowed.
- f. The qualified biologist shall maintain a record of all desert tortoises observed during the project monitoring. This information would be provided to the BLM/Service with the annual report from CDFG. This information shall include for each tortoise:

1. The GPS location (narrative and maps) and dates of observations;
 2. General condition and health, including injuries and state of healing and whether animals voided their bladders;
 3. Diagnostic markings (i.e., identification numbers or marked lateral scutes);
 4. Photograph of each observed desert tortoise.
- g. No later than 90 days after completion of construction or termination of activities, the QB shall prepare a report for the BLM. The report shall provide an estimate of the actual acreage disturbed by various aspects of the operation. This information shall be reported to the Service by BLM with the assigned file number #FWS-IMP-5425 and may be included with the first annual CDFG/agent report/discussion to BLM.
- h. Upon locating a dead or injured tortoise, the project proponent or agent is to notify the BLM Field Office. The BLM must then notify the appropriate field office (Carlsbad) of the USFWS by telephone immediately for care. Written notification must be made within five days of the finding, both to the appropriate USFWS field office and to the USFWS Division of Law Enforcement in Torrance. The information provided must include the date and time of the finding or incident (if known), location of the carcass or injured animal, a photograph, cause of death, if known, and other pertinent information.
An injured animal shall be transported to a qualified veterinarian for treatment at the expense of the project proponent. If an injured animal recovers, the appropriate field office of FWS should be contacted for final disposition of the animal.
- i. Except on county maintained roads, vehicle speeds shall not exceed 10 miles per hour through desert tortoise habitat.
- j. Workers shall inspect for tortoises under a vehicle prior to moving it. If a tortoise is present, the worker shall not move the vehicle until the tortoise has moved out from under the vehicle on its own volition. Only after it has moved, may the vehicle be moved.
- k. No dogs shall be allowed at a work site.
- l. All trash and food items shall be promptly contained within closed, raven proof containers. These shall be removed from the project site the same day to reduce the attractiveness of the area to ravens and other tortoise predators.
- m. Project proponents shall stockpile any vegetation grubbed or bladed from the project site. The access road is temporary and not graded. Following completion of the project, the access road and project site (a temporary disturbance) shall be re-contoured to approximate pre-project condition and the stockpiled vegetation randomly spread across the re-contoured area.

- n. A qualified biologist with experience conducting surveys for desert tortoise shall be approved by BLM for this project.

Because of the conservation activities undertaken by the Department of Fish and Game for the desert tortoise (habitat acquisition, education, protection), no compensation payment shall be required. In lieu of fencing, the Department shall ensure that no desert tortoises are harmed through the use of a biological monitor during guzzler installation. The drinker would also be equipped with an approved ramp to allow small wildlife, including desert tortoises, to climb out.

Consultation and Coordination

The Bureau of Land Management has worked collaboratively with the California Department of Fish and Game for the development of the environmental assessment. Since the proposed guzzler locations are within desert tortoise habitat, BLM initiated informal consultation with the United States Fish and Wildlife Service on August 2, 2007. The Fish and Wildlife Service provided input into the EA and provided some mitigation measures. They concurred with our determination of not likely to adversely effect and no adverse modification on October 14, 2007.

Public Involvement

The environmental assessment was available for a formal 30 day public comment period in December 2007 as posted on the El Centro Field Office's internet website. We did not receive any comments during the formal comment period; however, we did receive one comment after the period expired, which is summarized below:

Concern:

1. That BLM should be present for construction of all guzzlers and grant final approval of restoration efforts.
2. Annual inspections of guzzlers should not involve driving off authorized routes.
3. CDFG or their agents should ensure that all the guzzlers should be maintained in working order.
4. The impacts of the dams on water flow along the wash should be analyzed in the EA.
5. The location of the Vinegar Tank is located within an area the California Wilderness Coalition is proposing to add to the Indian Pass Wilderness Area and that this guzzler should be moved as close to Vinagre Wash as possible. The exact location of these guzzlers should be provided on maps in the document.

Response:

1. BLM will send staff out to the construction sites as staff is available. Biological monitors will be present for the duration of construction. BLM will inspect all sites and grant final approval of restoration measures.
2. BLM has included language in the mitigation measures under section “d” that states “*Driving off route is not permitted for routine inspection of the guzzlers. Subsequent maintenance may require vehicle use and thus will require restoration of temporary impacts.*”
3. The purpose in developing this project is to ensure permanent water sources for wildlife. CDFG and their agents are using a design for these guzzlers that has no moving parts and requires much less maintenance. CDFG intends to maintain these guzzlers in a functioning state.
4. BLM has included language in the *Cumulative Impacts* section on impacts of the dams on water flow along the washes.
5. At this time, this region is only proposed as a wilderness; it is not currently managed as wilderness or as a wilderness study area. Construction of this guzzler will not hinder the legislative decision of whether or not to designate these areas as wilderness.

FINDING OF NO SIGNIFICANT IMPACT

I have reviewed this environmental assessment including the explanation and resolution of any potentially significant environmental impacts. I have determined that the proposed action with the mitigation measures described below will not have any significant impacts on the human environment and that an EIS is not required. I have determined that the proposed project is in conformance with the approved land use plans.

Environmental impacts associated with the proposed action and alternatives have been assessed by an interdisciplinary team and described in Environmental Assessment (EA) CA-670-2007-97. The context of the EA analysis was determined to be at a local and regional scale in Imperial County, California. The effects of the action are not applicable on a national scale since no nationally significant values were involved.

In making this Finding of No Significant Impact (FONSI), the following criteria have been considered, in accordance with the Council on Environmental Quality (CEQ), 40 CFR. 1508.27:

1. *Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial.*

Beneficial Effects: The proposed wildlife guzzlers will have beneficial impacts by providing permanent water sources for wildlife in eastern Imperial County. These water sources will enable mule deer to better disperse and utilize more of

their habitat. These sites will be an important resource for insects which will benefit insectivorous birds and bats. The open water sources will also provide stopover areas for migrating birds for food and water.

Adverse Effects: Construction of the proposed wildlife guzzlers will involve temporary ground disturbance for installing the tank, drinker, waterline, and dam. Vegetation may be temporarily disturbed by vehicles or equipment while installing or maintaining the structures. The dam could impact vegetation for a short distance downstream by diverting the flow of water during small rain events. The sites will be restored once construction is completed and vegetation will be able to recover. Wildlife movements will increase in concentration near the guzzlers which could result in vegetation trampling and increased browsing. These vegetation impacts would be concentrated to the immediate vicinity of the guzzler development and would not result in denuding of the area.

2. *The degree to which the proposed action affects public health, safety and sanitation.* The proposed project will have no effect on public health and safety.
3. *Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.* The proposed guzzlers would not be situated in proximity to park lands, prime farmlands, wild and scenic rivers, or ecologically critical areas. The proposed project has been sited so as to avoid cultural or historic resources.
4. *The degree to which the effects on the quality of the human environment are likely to be highly controversial.* It is not likely that construction of the proposed wildlife guzzlers would result in impacts to the quality of the human environment that would be highly controversial. The areas in which the construction would take place are extremely remote and are currently used for hunting, hiking, wildlife viewing, off-highway vehicle recreation and camping. These uses will continue by similar numbers of people.
5. *The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risk.* Effects of the proposed action are well understood and would not involve any unique or unknown risks.
6. *The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.* The proposed action would not establish precedents for future actions or represent a decision in principle about a future action.
7. *Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into*

- small component parts.* Cumulative impacts of the proposed action on the environment would not be significant or related to any other action with significant cumulative impacts. An additional 44 guzzlers (including the five covered by this EA) are planned for installation in Eastern Imperial County under the terms of the Northern and Eastern Colorado Desert Coordinated Management Plan (Page 2-51). Construction of these additional guzzlers will require additional environmental assessments. Cumulatively construction of all these new water sources will result in disturbance of about 2 acres. All construction impacts are temporary in nature and will be restored to their previous condition.
8. *The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.* No significant scientific, cultural or historical resources would be affected by the proposed action.
 9. *The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.* The Federally threatened Desert Tortoise occurs throughout eastern Imperial County. Three of the proposed guzzler locations are within designated critical habitat for the Desert Tortoise. BLM has implemented mitigation measures to minimize risk to desert tortoises. Because of these mitigation measures, the Bureau determined that this project is not likely to adversely affect desert tortoises or adversely modify critical habitat. The United States Fish and Wildlife Service concurred with this determination on October 14, 2007.
 10. *Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.* The proposed action does not threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

Based on the findings discussed herein, I conclude that the proposed action is not a major Federal action and will result in no significant impacts to the environment. Preparation of an environmental impact statement to further analyze possible impacts is not required pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969.

Decision: My decision is to approve the proposed construction of five wildlife guzzlers as described in Alternative A of Environmental Assessment CA-670-2007-97 with the mitigation measures identified below.

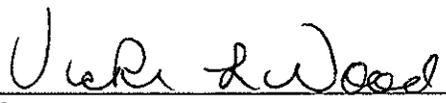
Administrative Remedies

Administrative remedies may be available to those who believe they will be adversely affected by this decision. Appeals may be made to the Office of Hearings and Appeals,

Office of the Secretary, U.S. Department of Interior, Board of Land Appeals (Board) in strict compliance with the regulations in 43 CFR Part 4. Notices of appeal must be filed in this office within 30 days after publication of this decision. If a notice of appeal does not include a statement of reasons, such statement must be filed with this office and the Board within 30 days after the notice of appeal is filed. The notice of appeal and any statement of reasons, written arguments, or briefs must also be served upon the Regional Solicitor, Pacific Southwest Region, U.S. Department of Interior, 2800 Cottage Way, E-1712, Sacramento, CA 95825.

The effective date of this decision (and the date initiating the appeal period) will be the date this notice of decision is posted on BLM's (El Centro Field Office) internet website.

Reviewer:  Date: 3/6/08
Environmental Coordinator

Authorized Officer:  Date: 3-10-08
Field Manager